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COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 8 (a) of the provisional agenda

**Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted
pursuant to Commission on Human Rights resolution 1995/37 B**

[Indonesia and E Timor section only]

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**QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO
ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:
TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT**

**Report of the Special Rapporteur, Mr. Nigel S. Rodley, submitted pursuant to
Commission on Human Rights resolution 1995/37 B**

Indonesia

By letter dated 11 July 1996 the Special Rapporteur advised the Government that he had continued to receive reports indicating that torture or other ill-treatment of both criminal suspects and persons detained for political reasons was occurring on a widespread basis in Indonesia. Persons said to be particularly vulnerable to such abuse were those arrested within the context of counter-insurgency operations in Irian Jaya and East Timor, workers engaging in strikes or unauthorized union activities, student demonstrators and journalists.

The use of torture was reportedly facilitated by the following factors: the near-impunity enjoyed by members of the security forces; the frequent practice of unacknowledged and/or arbitrary detention; the denial to detainees of access to legal counsel; and restrictions on such access by human rights monitors. The methods of torture reported include beatings all over the body with fists, pieces of wood, iron bars, cables, bottles or rocks; burning with cigarettes; electric shocks; rape and other sexual abuse; suspension upside-down by the ankles; sleep and food deprivation; and death threats.

The National Commission on Human Rights (Komnas HAM) was said to lack full independence and effectiveness, as evidenced by its apparent failure to consider, in its investigation of the riots in East Timor of September and October 1995, a number of human rights violations, including torture, allegedly committed by members of the security forces. In addition, being under no formal obligation to act on the Commission's findings, the Government had reportedly ignored them partially or wholly.

By letter dated 20 October 1996 the Government stated that by presenting sweeping allegations, without any substance whatsoever, that torture was widespread in Indonesia, the Special Rapporteur was engaging in a questionable method of work. Allegations of this nature should not be processed by the Special Rapporteur. The Government stressed that it had neither the time nor the inclination to explain that the Indonesian National Commission on Human Rights had all the power and resources to be operational and independent. To explain this matter, on behalf of the Commission, would be an irresponsible attempt to tamper with its work. The Government also provided quotations from an Indonesian human rights lawyer, a former Chairman of the

Indonesian Legal Aid Foundation, the United States Secretary of State and a United States Under-Secretary of State, all commenting favourably upon the work of the Human Rights Commission.

Information transmitted to the Government in connection with the Special Rapporteur's visit to Portugal

By letter dated 19 September 1996 the Special Rapporteur informed the Indonesian Government that the Government of Portugal had invited him to visit Lisbon in order to meet a number of East Timorese persons residing in Portugal who had allegedly been tortured by Indonesian security forces prior to leaving their country. Partly due to the fact that the Government of Indonesia had replied negatively (at least until spring 1997) to the Special Rapporteur's request for a visit to Indonesia and East Timor, he decided to accept the invitation. The Special Rapporteur considered that that opportunity to obtain first-hand information would help him to assess the situation regarding the use of torture against East Timorese and to better evaluate the information he regularly received from other sources, in particular non-governmental organizations. Accordingly, the Special Rapporteur visited Lisbon on 5 and 6 September 1996, during which he received the testimony of alleged victims as well as information from non-governmental organizations.

By the same letter, the Special Rapporteur provided the Government with a summary of allegations he had received during his visit. According to non-governmental sources, the use of torture against suspected supporters of the East Timorese resistance movement was widespread, despite the fact that it was prohibited under the Indonesian Criminal Code, the Code of Criminal Procedure and various ministerial regulations. Torture was allegedly carried out by the military, most frequently by members of the SGI (Special Intelligence Unit) forces, as well as the police, especially in East Timor, but also in Jakarta or other cities in Indonesia where the activists might be arrested. Few of the persons arrested were reportedly brought before a judge or prosecuted and, in any event, judges did not normally take into consideration allegations of torture made by those being prosecuted, who themselves were frequently not assisted by defence lawyers. It was also reported that torture usually occurred during the first hours or days following the arrest, during which time the detainees were deprived of contact with their families and interrogated about their links with the resistance movement. Arrests frequently took place in the context of demonstrations or other acts of protest, even if they were peaceful. The most common methods of torture reported include severe beatings with fists, lengths of wood and iron bars, kicking, burning with cigarettes and electric shocks. Although the majority of torture victims seemed to be males, reports were also received documenting sexual abuse, including rape, of women under detention or in other circumstances, such as when house-to-house searches were conducted.

The Special Rapporteur also heard 10 oral accounts of torture from the alleged victims, summaries of which were also transmitted to the Indonesian Government on 13 September 1996. In a reply dated 1 November 1996, the Government informed the Special Rapporteur that seven of the persons from whom the Special Rapporteur had received information had never in fact been detained nor had they been involved in law-breaking situations. The police and other law-enforcement officials had no criminal record of them whatsoever. With respect to the remaining three alleged victims, a summary of the Government's reply follows that of the corresponding case in the paragraphs below.

Martinho Ximenes Belo, a student, was first arrested at the age of 12 in 1981 in Vatulari. He and his father were interrogated about his brother's links with the resistance movement at military headquarters (KORAMIL), during which he received a cigarette burn to his forearm and he and his father were beaten in front of each other. They were detained at KORAMIL for about three months, and then imprisoned together with five other members of their family, in Atauro island.

He was released in 1986. In 1992 he was arrested again in Viqueque by military personnel but was not ill-treated during interrogation.

Moisés de Amaral was first arrested on 31 March 1982 in Vatulialong, along with 35 other persons, by KORAMIL personnel. All of the detainees were beaten heavily with wooden sticks during interrogation. He was later transferred to the Atauro island prison, where he remained until January 1987, without having seen a judge. On 27 November 1991, after he was arrested again in Viqueque, he was interrogated and beaten with belts, kicked and punched at KODIM headquarters. He remained at KODIM for about three months, during which time he was not allowed to receive visits, including from the ICRC.

Egas Dias Quintas Monteiro, a student, was arrested for the first time in August 1991 in Bandung, West Java, by military personnel, who blindfolded him and brought him to a military barracks in Sumera. There he was beaten with a rubber stick, kicked and given electric shocks to his sexual organs and ears. He also had a nail hammered in each foot, was burnt with cigarettes and had all his toenails extracted. During the torture he was interrogated about his participation in demonstrations and about declarations he had made to the press criticizing the Indonesian study programme for young East Timorese in Java. He was later taken to a military hospital, from which he escaped. He was subsequently arrested in November 1991 and November 1994 in Jakarta, but he was not ill-treated on those occasions.

Alfredo Rodríguez was first arrested in October 1987, while carrying arms for the guerrilla in the mountains. He was wounded in the incident and hospitalized in Dili. One month later he was taken to premises of the military intelligence unit (SGI) where, under interrogation, he was beaten, burned with cigarettes, and two of his toenails were removed. The interrogators also placed his feet under the legs of a chair and sat on it. He was again arrested on 9 June 1993 in Los Palos by military personnel. At the local barracks he was deprived of his clothes, handcuffed, punched, kicked and beaten with wooden sticks, burned with cigarettes repeatedly and his legs were scraped with a sharp object that caused deep wounds. During the torture he was interrogated about his involvement with the resistance movement and was subsequently placed in a cell for six days with his hands and feet tied. He was released on 17 July 1993 after being warned not to tell anybody that he had been tortured.

Valdemar Pereira da Silva, a student, was arrested on 17 January 1990 in Lecidere, Dili, by the SGI, during a peaceful pro-independence demonstration. At SGI headquarters in Colmera, he was interrogated about his links with the resistance movement and beaten until he fainted. The interrogators also put the legs of a chair on his feet and sat on it. He was released a few days later and arrested again on 12 November 1991 in the context of the Santa Cruz incidents. He was interrogated on over 10 occasions during four months' detention and was severely beaten during three of the session. Following a demonstration in Colmera on 5 September 1994 he was detained for a third time. At SGI headquarters he was interrogated for about two hours, during which he was severely beaten and given electric shocks to his feet and arm.

Ilidio de Oliveira Câmara was arrested together with six friends on 26 December 1995, near the Canadian Embassy in Jakarta. At KODIM headquarters they were interrogated separately and severely beaten. Ilidio de Oliveira Câmara was also burned with cigarettes in his arms. He was transferred to a police station and further interrogated and beaten. He stayed at the police station for two months, during which he was not allowed to contact his family.

He was subsequently taken to a rehabilitation centre (Rutan), where he was beaten again upon arrival and subjected to degrading treatment, such as forcing him to put his leg into the toilet.

Antonio Campos was first arrested on 12 February 1987 in Los Palos, East Timor. At SGI headquarters in Jakarta he was interrogated about his involvement in the resistance movement, subjected to beatings, and one of his toenails was removed. In addition, the legs of a table were placed on his feet while one of the interrogators jumped on it. After three months in Jakarta, he was taken back to the Dili SGI headquarters and released 10 days later. On 9 July 1993 he was arrested again in Los Palos. On each of the following five days he was interrogated, beaten and given electric shocks to his toes and fingers. He spent nine days in a dark cell before being released. During the night of 16 April 1996 he was arrested for a third time while trying to enter the Embassy of Germany in Jakarta together with seven other East Timorese. Fifteen minutes after they had jumped over the Embassy's wall, military personnel arrived and beat them severely using iron bars, as a result of which Antonio Campos had one foot fractured.

Victor dos Reis Carvalho, a student, was arrested in Dili on 27 January 1994, after having set fire to an Indonesian flag. At SGI headquarters, he was interrogated and beaten until he fainted and his forearm was deeply pierced with a pin for about 10 minutes. A judge in Ermera subsequently sentenced him to one year's imprisonment. When he mentioned that he had been tortured, the judge stated that, since the torture had been done by the military, it was not his concern. No defence lawyer assisted him during the trial. The day he arrived at Becora prison, he was beaten by the guards and forced to do physical exercises for some two hours. In the following days he was beaten several times. The Government replied that Victor dos Reis Carvalho's prison term was completed on 2 February 1995. During his interrogation and imprisonment he was never tortured.

Domingos Savio Correia, a student, was arrested in Viqueque by members of the SGI on 22 November 1995 while trying to leave the country by boat with 28 other persons. At the military post near the harbour, he was interrogated and beaten. After being transferred to Dili police headquarters (POLWIL) they were again interrogated and beaten. Domingos Savio Correia was interrogated for about three hours and severely beaten on the head and chest. He and three other detainees also had a chair placed on their feet in the manner described above. After being held at POLWIL for five months he was released. The Government replied to these allegations that Domingos Sanzo Correia had been arrested on 14 November 1995 for stealing a boat and was released on 22 November 1995. Neither he nor his friends had been tortured. The leader of the boat people told the High Commissioner for Human Rights during his visit to Indonesia in December 1995 that they had not been mistreated by the police and that she wanted to leave East Timor to make a better life for her and her daughter.

Florindo dos Santos, a student, was first arrested on 9 July 1993 in Los Palos by SGI personnel. At SGI headquarters in Los Palos, he was slapped while being interrogated, but did not suffer any further ill-treatment. However, four other persons arrested at the same time and considered to be local leaders of the resistance movement, Aurelio Gandara, Gil da Cruz, Estakio José Fernandes and Kamilio Alegria, were allegedly beaten, hung from their arms, burned with cigarettes and immersed in a water tank with blocks of ice roped to their bodies. One month later he was released. On 3 February 1996 he was arrested again in Dili. At the police station he was interrogated about his participation in a demonstration, punched, beaten with a wooden stick, kicked on his forehead and burned with cigarettes. After his release, Florindo dos Santos fled to Jakarta where, on 16 April 1996, he entered the Embassy of Germany as described in the case of Antonio Campos referred to above. In that incident he also was heavily beaten with wooden and iron sticks until he fainted. At the KODIM barracks and the police station he suffered no further ill-treatment and on 20 April he was released. The Government informed the Special Rapporteur that Florindo dos Santos had been arrested on 11 July 1993 on charges of involvement as a liaison for armed separatists. He was released on 18 July 1996 and had not been arrested since that time.

By letters dated 20 October 1996 and 1 November 1996 the Government informed the Special Rapporteur that it considered that the decision by the Government of Portugal to invite the Special Rapporteur to the country had been triggered by Portugal's hostile attitude towards Indonesia and had not been based on a sincere desire to promote and protect human rights. It was merely a part of a concerted and systematic effort to besmirch and discredit Indonesia. This hostility against Indonesia was shared by those East Timorese who had forced their way into embassies in Jakarta in the months before or during the sessions of the United Nations General Assembly, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The timing of actions provided clues as to the real motive of their deeds. Indonesia did not intend to bar them from leaving the country, but they had no well-founded fear of persecution. In addition, those East Timorese youths who had previously fled to Portugal had been students in scholarship programmes in various provinces who had failed to graduate. As they were faced with shame, an urgent need for resources and an uncertain future, they had opted for the popular shortcut of fleeing to Portugal with a fake claim of persecution. The reason that Portugal, as opposed to other foreign embassies, had provided them with refugee status was because only Portugal would benefit politically from such a situation.

The Government also expressed concern that the Special Rapporteur had used the term "oral testimonies" to refer to the above-described allegations, as it was not clear whether the statements of the persons interviewed had been made under oath. Even if the statements had been made under oath, taking such evidence would be beyond the mandate of the Special Rapporteur, as his post had never been charged to act as a court of law. Furthermore, using the term "oral testimonies" could lead one to equate the work of the Special Rapporteur with that of common NGOs, which most if not all of the time had claimed to secure testimonies which had later turned out to be mere allegations. Moreover, the allegations could not be true, because the ICRC had had unlimited access to places of detention in East Timor since 1979.

To sum up, the Special Rapporteur transmitted to the Government information on 26 individual cases, including the 10 mentioned above. The Government replied to 23 of these cases and to 27 cases which had been transmitted by the Special Rapporteur in 1994 and 1995. The Special Rapporteur also made 9 urgent appeals on behalf of 27 individuals and four situations involving an undetermined number of individuals. One of the urgent appeals was joined by the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on extrajudicial, summary, or arbitrary executions. Another appeal was joined by the Chairman of the Working Group on Arbitrary Detention.

Observations

The Special Rapporteur appreciates the Government's responses in respect of the cases he transmits to it. Despite these responses, he believes that the persistence and consistency of the allegations he receives, justify continuing concern with the issue. In particular, he does not consider simple denials by law enforcement or security agencies of detention or ill-treatment during detention as conclusive. With regard to his meetings with alleged victims of torture or ill-treatment in East Timor, he found several of their stories (which he subjected to close examination) credible, partly because of the limited nature of the allegations: ill-treatment did not occur on every occasion of detention of the person in question, nor did the ill-treatment necessarily last for the duration of the detention. The Special Rapporteur continues to regret that an invitation to visit Indonesia and East Timor has not been forthcoming.

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